

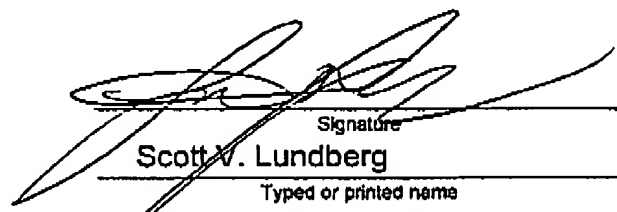
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PTO/SB/33 (07-05)

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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) 100.2900501	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>11/19/01</u> Signature _____ Typed or printed name _____		Application Number <div style="border: 1px solid black; padding: 2px; text-align: center;">09/993,320</div>	Filed <div style="border: 1px solid black; padding: 2px; text-align: center;">11/19/01</div>
		First Named Inventor <div style="border: 1px solid black; padding: 2px; text-align: center;">Lewis et al.</div>	
		Art Unit <div style="border: 1px solid black; padding: 2px; text-align: center;">2116</div>	Examiner <div style="border: 1px solid black; padding: 2px; text-align: center;">Trujillo</div>
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s).          Note: No more than five (5) pages may be provided.</p>			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. <u>41,958</u> Registration number _____ <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<div style="text-align: center;">             Signature  <b>Scott W. Lundberg</b>            Typed or printed name  <div style="border: 1px solid black; padding: 2px; text-align: center;">(612) 332-4720</div>           Telephone number  <u>11-29-05</u>            Date         </div>	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input checked="" type="checkbox"/> Total of <u>1</u> forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Applicant(s)	Lewis et al.	<b><u>PRE-APPEAL BRIEF REQUEST UNDER PRE- APPEAL BRIEF CONFERENCE PILOT PROGRAM</u></b>
Serial No.	09/993,320	
Filing Date	November 19, 2001	
Group Art Unit	2116	
Examiner Name	James K. Trujillo	
Confirmation No.	5659	
Attorney Docket No.	100.290US01	
Title: RESILIENT BOOT PROM LOADER		

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Applicant has reviewed the Final Office Action mailed on August 30, 2005 in view of the new Pre-Appeal Brief Conference announced in the Official Gazette on July 12, 2005. To take advantage of this new procedure, Applicant respectfully requests that the following issues be considered in the Pre-Appeal Brief Conference.

**REMARKS****A. Rejection of claims 27-29, 32, 75-77 and 79-80 under 35 U.S.C. 102(e)**

The Examiner rejected claims 27-29, 32, 75-77 and 79-80 under 35 U.S.C. 102(e) as being anticipated by Ha (U.S. Patent No. 6,175,919).

As indicated on page 19 of Applicant's Amendment and Response filed 22 June 2005, Ha does not teach or suggest initiating a firmware upgrade without an administrator based on the device ID of each of the one or more communication devices. Applicant respectfully contends that the Examiner erred in suggesting that Ha initiates a firmware upgrade without an administrator based on the device ID of each of the one or more communication devices (see Final Office Action, page 3). Further, Applicant respectfully asserts that the Examiner erred in omitting an essential element required by Ha to anticipate the claim limitations as indicated on page 19 of Applicant's Amendment and Response filed 22 June 2005. Specifically, Ha does not disclose *initiating a firmware upgrade without an administrator based on the device ID*, as

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argued on pages 17 and 19 of Applicant's Amendment and Response filed 22 June 2005 (emphasis added).

**B. Rejection of claims 33 and 78 under 35 U.S.C. 103(a)**

The Examiner rejected claims 33 and 78 under 35 U.S.C. 103(a) as being unpatentable by Ha. Applicant refers to remarks A. presented above regarding Ha.

**C. Rejection of claims 1-5, 7, 10, 12-13, 15-19, 30, 69-73 and 81 under 35 USC § 103(a)**

The Examiner rejected claims 1-5, 7, 10, 12-13, 15-19, 30, 69-73 and 81 under 35 USC § 103(a) as being unpatentable over Ha in view of Itoh (U.S. Patent 6,795,912). Applicant refers to remarks A. and B. presented above regarding Ha.

Regarding Itoh, Applicant respectfully contends that neither Ha nor Itoh, alone or in combination, teach or suggest the limitations of claims 1-5, 7, 10, 12-13, 15-19, 30, 69-73 and 81, as presented in pages 22 to 25 of Applicant's Amendment and Response filed 22 June 2005.

**D. Rejection of claims 6, 8-9, 11 and 74 under 35 USC § 103(a)**

The Examiner rejected claims 6, 8-9, 11 and 74 under 35 USC § 103(a) as being unpatentable over Ha and Itoh in view of Ishibashi et al. (U.S. Patent 6,654,820). Applicant refers to remarks A. through C. presented above regarding Ha and Itoh.

Regarding Ishibashi et al., Applicant refers to remarks A. through C. presented above, and to the previous arguments presented on page 26 of Applicant's Amendment and Response filed 22 June 2005.

**E. Rejection of claim 14 under 35 USC § 103(a)**

The Examiner rejected claim 14 under 35 USC § 103(a) as being unpatentable over Ha together with Itoh in view of Treu (U.S. Patent 5,245,615). Applicant refers to remarks A. through C. presented above regarding Ha and Itoh, and to the previous arguments presented on page 26 of Applicant's Amendment and Response filed 22 June 2005.

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**F. Rejection of claim 31 under 35 USC § 103(a)**

The Examiner rejected claim 31 under 35 USC § 103(a) as being unpatentable over Ha in view of Ishibashi et al. Applicant refers to remark A. presented above regarding Ha, and to the previous arguments presented on page 27 of Applicant's Amendment and Response filed 22 June 2005.

**G. Rejection of claims 20-23 and 25-26 under 35 USC § 103(a)**

The Examiner rejected claims 20-23 and 25-26 under 35 USC § 103(a) as being unpatentable over Ha in view of Itoh and Applicant's Admitted Prior Art (AAPA). Applicant refers to remarks A. through C. presented above regarding Ha and Itoh, and to the previous arguments presented on page 28 of Applicant's Amendment and Response filed 22 June 2005.

**H. Rejection of claim 24 under 35 USC § 103(a)**

The Examiner rejected claim 24 under 35 USC § 103(a) as being unpatentable over Ha and Applicant's Admitted Prior Art (AAPA) and Itoh in further view of Ishibashi. Applicant refers to remarks A. through C. presented above regarding Ha and Itoh, and to the previous arguments presented on page 28 of Applicant's Amendment and Response filed 22 June 2005.

**I. Rejection of claims 34-37 and 39-40 under 35 USC § 103(a)**

The Examiner rejected claims 34-37 and 39-40 under 35 USC § 103(a) as being unpatentable over Ha in further view of Itoh and Comer, "Computer Networks and Internets". Applicant refers to remarks A. through C. presented above regarding Ha and Itoh, and to the previous arguments presented on page 29 of Applicant's Amendment and Response filed 22 June 2005.

**J. Rejection of claim 38 under 35 USC § 103(a)**

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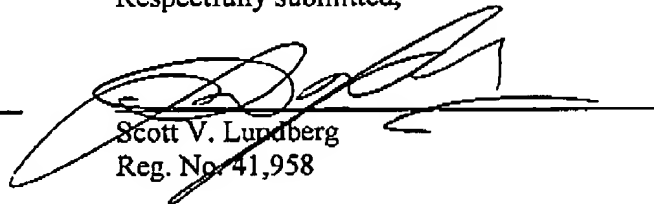
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The Examiner rejected claim 38 under 35 USC § 103(a) as being unpatentable over Ha, Itoh and Comer in further view of Ishibashi et al. Applicant refers to remarks A. through C. presented above regarding Ha and Itoh, and to the previous arguments presented on page 30 of Applicant's Amendment and Response filed 22 June 2005.

Please direct any inquiry concerning this matter to the undersigned at the number listed below.

Respectfully submitted,

Date: 11-28-05  
Scott V. Lundberg  
Reg. No. 41,958

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